

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ENTERED

MAR 26 2008

U.S. CLERK'S OFFICE
INDIANAPOLIS, INDIANA

COOK MEDICAL INCORPORATED and)
COOK INCORPORATED,)
Plaintiffs,)

vs.)

1:08-cv-188-SEB-JMS

ANDREA GRIFFIN, DANIEL ZUBIRIA,)
PATRICK MORRISSEY, MICHAEL S.)
WILKINS, and ENDOLOGIX, INC.,)
Defendants.)

ORDER GRANTING PRELIMINARY INJUNCTION

The Court, having considered Plaintiffs' Motion for Preliminary Injunction (Docket No. 6), Defendants' response thereto (Docket No. 27), Plaintiffs' reply (Docket No. 30), and the testimony, evidence, and oral arguments presented to the Court on March 24 and 25, 2008, and being duly advised in the premises, now rules on Plaintiff's Motion. Defendants, and their representatives, agents, successors, and assigns, are hereby enjoined as follows:

1. The individual Defendants are enjoined, for a period of 24 months from the date of this order, or until the court otherwise determines, from directly or indirectly (on his or her own behalf or that of any person or entity) selling or otherwise providing or soliciting the sale or provision of any product (including without limitation the Powerlink stent graft) that competes with Cook's products (including without limitation the Cook Zenith stent graft), or doing any business that competes with Cook's business, to or with any Cook customer or prospective customer as to which, during the 24 months immediately preceding the termination of his or her employment with Cook, such individual Defendant (i) engaged in any solicitation, sales activity, or other direct contact on behalf of Cook, (ii) performed any duties or services on behalf of Cook, or (iii) received and/or used any of Cook's

confidential information.

2. The individual Defendants are enjoined from retention, communication, distribution, or other such use of any confidential materials or information related to their former employment or accounts while employed by Cook for the benefit of Endologix;
3. The individual Defendants are ordered to keep and maintain contemporaneous, accurate diaries of contacts made by them during the 24-month period following their departures from Cook with all customers or potential customers for AAA sales, and submit them for monthly review by an Endologix official as described in paragraph 6 below, to ensure that no former Cook customer of theirs has been included;
4. Endologix is enjoined from interfering with the individual Defendant sales representatives' covenants not to compete or disclose confidential information in any way through territory or account assignments, or directing or encouraging contacts with accounts previously developed or serviced by the individual Defendants while those employees were employed by Cook, or from remunerating these employees for any such work produced on behalf of Endologix; or in any other way employing, engaging, or otherwise assisting any individual Defendant to perform any duties or services that would in any respect violate the terms of his/her covenant not to compete and confidentiality agreement as well as this preliminary injunction;
5. Endologix is enjoined from recruiting or hiring any other Cook sales agents to perform work in the AAA division who are subject to comparably drawn covenants not to compete, and placing them in the same territories they served when employed by Cook with responsibility for their former customer accounts;
6. Endologix is ordered to inquire of each new sales representative hiree in its AAA division whether said hiree is subject to a covenant not to compete and/or a confidentiality agreement. If a new hiree is determined to have previously worked with Cook within the past 24 months prior to being hired by Endologix, supervision of these sales representatives must be conducted at least in part by an official of Endologix who is generally otherwise responsible for legal or corporate compliance. Endologix shall also ensure that any such new hiree who is determined to have previously worked with Cook within the past 24 months receive a copy of this order.

7. Endologix is *not* enjoined from further sales to or servicing of AAA customer accounts tied to the individual Defendants, so long as the contacts maintained by the sales agent are by someone other than the four individual Defendants. Any such sales or servicing must be performed without reliance on confidential Cook materials or information which Endologix may have access to.

IT IS SO ORDERED.

Date: March 25, 2008

Sarah Peters Parker, Judge

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